

## **REMARKS**

Favorable reconsideration and allowance of this application are requested.

### **1. Discussion of Amendments**

By way of the amendment instructions above, claim 1 has been revised so as to change the original passive language to active process steps which are believed to address the Examiner's rejections advanced under 35 USC §§101 and 112, second paragraph.<sup>1</sup> In addition, the language of the AB monomers of component a. has been economized.

Thus, pending entry of this amendment, claims 1-5 will remain pending herein.

### **2. Response to Double Patenting Rejection**

Applicants respectfully request reconsideration and withdrawal of the provisional "double patenting" rejection based on commonly owned USSN 10/520,704.

Specifically, although this is a provisional obviousness-type double patenting rejection, applicants respectfully submit that the multilayer structures of the present application and the '704 application are not obvious variants of one another. In this regard, the invention of the '704 application relates to a process in which a polyamide is applied to a solid substrate, whereas the invention of the present application relates to a process producing a multilayer flat film. The production of multilayer flat film is a technology known per se, usually employing the co-extrusion technique. When co-extrusion is employed, the materials for the various layers are melted in separate extruders and transported to an extruder head equipped with one or more outflow openings. The various molten streams are then in molten condition contacted with each other across the desired width (see page 3, lines 6-10 of the subject application). This

---

<sup>1</sup> Because the amendments render moot the 35 USC § § 101 and 112, second paragraph rejections, no additional comment on the same will be presented below.

technique is unrelated to solid substrates of the variety contemplated in the '704 application. Therefore, the applicants respectfully submits that claims 1-2 and 4-5 of the present application are non-obvious over claims 1 and 4 of the '704 application.

Withdrawal of the double patenting rejection is therefore in order.

### 3. Response to 35 USC §102(b) Rejection

Prior claims 1-5 attracted a rejection under 35 USC §102(b) as allegedly anticipated by Cordes et al (EP 0000363). In this regard, the Examiner asserts that the quantities of comonomeric units specified by Cortes satisfy Applicant's formula (1). Applicant respectfully disagrees.

Specifically, the Examiner has calculated the value of the expression  $1 / [(F_A - 1) \cdot (F_B - 1)]$  for Example 1b of Cordes to be  $42 \times 10^3$ . However, applicants submit that the correct calculated value according to Example 1b of Cordes is 0.5 – a value which of course is *lower* than  $P = 0.998$ . The same calculated value holds for Example 2c of Cordes.

Applicants note in this regard that  $F_A$  is defined by  $\sum (n_i \cdot f_i^2) / \sum (n_i \cdot f_i)$ . In the Cordes examples, there is only one triamine and one diacid present so the formula reduces to the value of  $f_i$  which is 3 and 2, respectively. Thus, the expression quoted above then results in  $1 / [(3-1)(2-1)] = 0.5$ .

Cordes thus does **not** disclose the specific branched polyamides which are specified in claim 1 of the present application and therefore cannot anticipate such claims under 35 USC §102(b).

### 4. Response to 35 USC §103(a) Rejection

Claims 1-5 attracted a rejection under 35 USC §103(a) as allegedly being "obvious", and hence unpatentable, over Nijenhuis et al in view of Van Marcke.

Applicants respectfully disagree with the Examiner and suggest that the pending claims are patentably distinguishable over such cited references.

The present invention relates to a process for producing a multilayer flat film containing a polyamide layer and a layer of another polymer. A disadvantage of known processes is the limitation of production speed and processing window due to deviations in the layer distribution of the polyamide layer in the multi layer film, especially at the sides of the film (see for detailed discussion page 1, paragraph 0002 of the present application). Hence, an objective of the present invention is to provide a process for producing a multilayer flat film that can be applied in a wide processing window and enabling increased production rates.

This problem is solved in the present invention in that a branched polyamide according to formulas (1)- (3) is used. This is illustrated by Examples I-III, which showed a uniform layer distribution in which the polyamide layer in the multi layer film was present across the whole width of the film, even when the production speed was increased by a factor 4 (see paragraph 0030).

Van Marke does not teach that there is a link between uniform layer distribution and the employment of a polyamide according to the present invention.

Nijenhuis does not relate to a multilayer flat film nor to a process of making multilayer flat films, let alone allowing for a wide processing window resulting in higher production rates.

A person skilled in the art, wishing to increase the production speed of making multi layer flat films would have no incentive to employ the branched polyamide as disclosed by Nijenhuis in the production of a multi layer flat film.

Even though films of polyamide and polyethylene are well-known, as is exemplified by Van Marke, there is no reasonable expectation of success in employing a polyamide layer of the polyamide disclosed by Nijenhuis in the process for making a

multi layer flat film to increase the production speed, as Nijenhuis is silent about multi layer flat films and Van Marke does not relate to the production of multi layer flat films, let alone increasing the production speed and allowing for a wide processing window.

In closing, applicants note that the last sentence in paragraph no. 13 and paragraph no. 14 of the Official Action are somewhat unclear. Specifically, in such paragraphs it seems as if the Examiner believes that non-linear polyethylene is similar to non-linear polyamide. Marke suggests the use of non-linear polyethylene. It would certainly *not* however be obvious to try using non-linear polyamide to make a multi layer flat film for a person skilled in the art when reading that non-linear polyethylene can be advantageously used.

Applicant therefore respectfully submits that the invention is non-obvious over the cited prior art.

## **5. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /Bryan H. Davidson/            
Bryan H. Davidson  
Reg. No. 30,251

BHD:dlb  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100